

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

EL PASO COUNTY, TEXAS; BORDER
NETWORK FOR HUMAN RIGHTS,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States of America, *et al.*,

Defendants.

Case No. EP-19-CV-66-DB

**NOTICE OF CHANGES IN FUNDING FOR BORDER BARRIER PROJECTS
UNDERTAKEN PURSUANT TO 10 U.S.C. § 2808 IN FISCAL YEAR 2019**

Defendants hereby provide notice of recent changes to the funding sources for the eleven border barrier military construction projects the Secretary of Defense decided to undertake on September 3, 2019, pursuant to 10 U.S.C. § 2808.

To fund the § 2808 border barrier military construction projects that are the subject of litigation in this case, the Secretary of Defense deferred \$3.6 billion in military construction projects, divided evenly between projects outside of the United States and projects located in the United States (including U.S. territories). *See* ECF No. 114. The list of projects deferred at the time of the Secretary's decision to undertake § 2808 construction is available at ECF No. 124.

On April 27, 2020, the Secretary of Defense authorized adjustments to the funding for the § 2808 projects. *See* Exhibit 1. To enable their execution as scheduled in calendar year 2020, the Secretary removed 22 projects located in the United States from the deferred projects list and directed that \$545.536 million in funding for those projects be released. *See id.* The Secretary also directed \$545.536 million in replacement sources to ensure adequate funding remains

available for § 2808 border barrier military construction. These substitute funds are drawn from (1) two projects that have been cancelled for reasons not associated with border barrier military construction; (2) the deferral of 16 projects located outside the United States that are scheduled to award in fiscal year 2021 or later; and (3) excess planning and design funds. *See id.* A chart listing the 22 projects removed from the deferral list and the substitute funding sources is attached as Exhibit 1. *See id.*

Dated: April 29, 2020

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

DAVID M. MORRELL
Deputy Assistant Attorney General

ALEXANDER K. HAAS
Director, Federal Programs Branch

ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch

/s/ Andrew I. Warden
ANDREW I. WARDEN (IN Bar 23840-49)
Senior Trial Counsel, Federal Programs Branch

MICHAEL J. GERARDI
KATHRYN C. DAVIS
LESLIE COOPER VIGEN
RACHAEL L. WESTMORELAND
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L St., NW, Rm. 12212
Tel: (202) 616-0680
Fax: (202) 616-8460
E-mail: Andrew.Warden@usdoj.gov

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the clerk using the CM/ECF system, which will send notification of such filing to all counsel of record in this matter.

/s/ Andrew I. Warden
Andrew I. Warden